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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,699	10/27/2003	Farid Bruce Khalili	VER2226-002	2292

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STANDLEY LAW GROUP LLP
495 METRO PLACE SOUTH
SUITE 210
DUBLIN, OH 43017

EXAMINER

SWIGER III, JAMES L

ART UNIT	PAPER NUMBER
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3733

MAIL DATE	DELIVERY MODE
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08/24/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/693,699

Applicant(s)

KHALILI, FARID BRUCE

Examiner

James L. Swiger

Art Unit

3733

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 6/7/2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 58-63 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 58-63 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on 10/27/2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/7/2007 has been entered.

Drawings

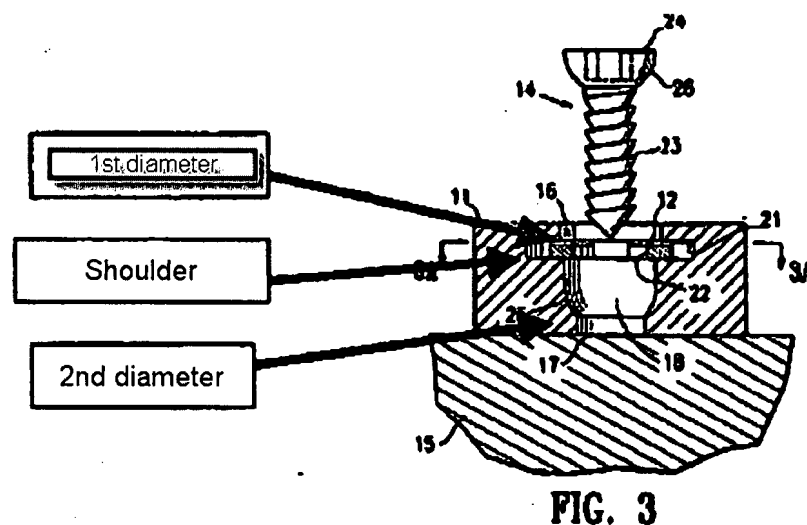
New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because several drawings contain unclear lines and/or numbering. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance. See draftsmen report mailed on 9/18/2006.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 58-63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Talaber et al. (US Patent 6,261,291) in view of Warden et al. (US Patent 5,261,910) and Bono (US Patent 5,954,722). Talaber et al. disclose an orthopedic implant assembly comprising a screw retention member (11) having a bore formed therethrough (13) with a first and second diameters (see drawing below).



Talaber et al. also disclose a tapered retention seat (34) along an intermediate portion of the passageway, a split ring (22) that has inside and outdoor diameters that allows for expansion, that is also removably seated in the retention seat (21) that is capable of rotating engagement with the fastener (14) and being moved by the rotation of the fastener. Talaber et al. also disclose a fastener with a shaft (proximate to 23) and a head at one end, the head being generally spherical, and wherein the shaft is threaded for purchase of bone.

Talaber et al. disclose the claimed invention except for more specifically a split ring that is frustoconical. Warden et al. disclose a ring portion that has a frustoconical

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shape (70 and 76, respectively), allowing for a better fit in the shoulder portion of the implant assembly (see Col. 4, lines 41-54). It would have been obvious to one having ordinary skill in the art at the time the invention was made to construct the implant assembly of Talaber et al. having at least a frustoconically-shaped split ring in view of Warden et al. to better secure the device in the bone.

Talaber et al. disclose the claimed device except for threads on the head of the fastener to separate the top and bottom portions. Bono disclose fasteners that have thread portions that separate a top and bottom portions (see also col. 3, lines 21-30). It would have been obvious to one having ordinary skill in the art at the time the invention was made to construct the device of Talaber et al. having at least threads separating the top and bottom of the screw head in view of Bono to better secure the fastener with respect to the plate when inserting the implant into the body.

The combination of Talaber et al. Warden et al. and Bono further disclose the claimed method including the steps of providing the orthopedic implant having the claimed structure as in claim 58, providing the bone screw with interfaces with the structure of the implant device, and placing the implant to be inserted (see at least Figure. 1 in Talaber et al.) on bone. It would be inherent in the use of the claimed device to rotate the screws with respect to the implant structure as provided by the prior art.

Response to Arguments

Applicant's arguments with respect to claims 58-63 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion


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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to James L. Swiger whose telephone number is 571-272-5557. The examiner can normally be reached on Monday through Friday, 9:00am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo Robert can be reached on 571-272-4719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

 8/18/07

JLS


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